

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



March 16, 1990

ALL COUNTY LETTER NO. 90-27

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: Sidwell v. McMahon Court Case

REFERENCE: MPP 42-213.12 and 42-215.11; ACL 85-73 ACL 86-138

On March 20, 1989, the Sidwell v. McMahon lawsuit was filed in the United States District Court. Plaintiffs asked the Court to require that property liens filed to repay AFDC grants be counted as allowable encumbrances when determining the net equity value of real property. This would change current State policy which does not consider these types of liens when determining the value of real property during eligibility determinations.

In response to the lawsuit the Department of Social Services asked the Federal Family Support Administration to review its policy on this issue. The Family Support Administration responded that the liens should be counted as valid encumbrances. Therefore, the County lien together with all other valid encumbrances (MPP 42-215.11) are to be used to determine the value of the applicant's/recipient's property when making an eligibility determination.

Those AFDC assistance units which self-identify as having had a property lien shall have the net value of the real property reexamined for possible resource eligibility. If the remaining equity value is less than \$1,500 the Counties are to retroactively determine the net value of the property for each month in the lien period. If the net value of the recipient's total property and resources falls below \$1,000, at any point during the lien period, the recipient shall be considered to have met resource limits for eligibility at the time. The recipient will not be required to repay aid received while the recipient is resource eligible. Any money recouped for a period when the assistance unit was resource eligible will be returned as a corrective underpayment.

For assistance units which are currently having a lien established against the value of their real property, a calculation is to be made by subtracting the amount of the Maximum Aid Payment from the net value of the property to determine when the assistance unit is likely to become resource eligible. If the MAP amounts when subtracted from the net value of the property would not reduce the net value below \$1,500 at any time during the lien period, the County would not take any action at that time. If the net value of the property is likely to fall below \$1,500 at any time during the lien period Counties will establish a reminder file so that case eligibility will be reexamined during the month the family was estimated to become resource eligible. Any lien amount accumulated while the

assistance unit was resource ineligible must still be repaid when the real property is sold. In all cases, at the time that the lien period expires the County must determine the months (if any) during the lien period when the assistance unit was resource eligible.


Before any current case is terminated due to excess property or repayable aid is assessed, the County is to determine if the assistance unit had at any point during the lien period become resource eligible under the revised Sidwell policy.

Additionally, a limited number of cases will be referred to the Counties by the State for a resource eligibility test and corrective underpayments, if appropriate, using the same process as outlined above.

The CA-81 and CA-82 are currently being modified to incorporate the Sidwell policy. Revised versions of the forms will be sent under a separate cover letter on or about April 17, 1990. Counties are to use the current versions of these forms until the revised forms are received. Counties using the existing versions of the forms are to verbally advise applicants/ recipients of the Sidwell policy when using the forms.

At the point at which an assistance unit becomes resource eligible it will no longer be required that the applicant/recipient advertise the property as required in MPP 42-213(b)(1) or make any other efforts to market the property which would require out of pocket expenditures.

Until the pertinent regulations are amended this ACL will remain in effect. If you have any questions, please call Mr. Jim Mullany at (916) 445-7884.



ROBERT A. HOREL
Deputy Director